

**Grey-highlighted sections were considered by the Commission in November and have not been changed subsequently.**

## **CHAPTER 13**

### **CAMPAIGN REPORTS AND FINANCES**

#### **SUBCHAPTER I**

#### **GENERAL PROVISIONS**

##### **21A § 1001. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.

**2. Election.** "Election" means any primary, general or special election for state, county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

**3. Person.** "Person" means an individual, committee, firm, partnership, corporation, association, ~~group~~ or organization.

##### **21A § 1002. Meetings of commission**

The Commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every 2 weeks in the 60 days preceding an election. In the 28 days preceding an election, the Commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the Commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise. Meetings may be held over the telephone if necessary, as long as the Commission office remains open for attendance by complainants, witnesses and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the Commission are permitted only during the 28 days prior to an election when the Commission is required to meet within 24 hours of the filing of any complaint or question with the Commission. The Commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election ~~and from 8 a.m. until at least 8 p.m. on election day~~. The Commission shall meet at other times on the call of the Secretary of State, the Speaker of the House, the President of the Senate, the chair or a majority of the members of the Commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

## **21-A § 1004-A. Penalties**

The Commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

**1. Late campaign finance report.** A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

**2. Contribution in excess of limitations.** A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

**3. Contribution in name of another person.** A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

**4. Substantial misreporting.** A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

**5. Material false statements.** A person that makes a material false statement or that makes a statement that includes a material misrepresentation in a document that is required to be submitted to the Commission, or that is submitted in response to a request by the Commission, may be assessed a penalty not to exceed \$5,000.

When the Commission has reason to believe that a violation has occurred, the Commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the Commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the Commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure.

## SUBCHAPTER II

### REPORTS ON CAMPAIGNS FOR OFFICE

#### 21A § 1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Clearly identified.** "Clearly identified," with respect to a candidate, means that:

- A. The name of the candidate appears;
- B. A photograph or drawing of the candidate appears; or
- C. The identity of the candidate is apparent by unambiguous reference.

**2. Contribution.** The term "contribution:"

A. Includes:

- (1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;
- (3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and
- (4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and

B. Does not include:

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$100 with respect to any election;
- (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$100 with respect to any election;

- (4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (4-A) Any unreimbursed campaign-related travel and lodging expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
- (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created, obtained or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
- (7) Compensation paid by a ~~political~~ party committee to an employee of that ~~party~~ committee for the following purposes:
- (a) Providing ~~advice to any one~~ assistance to a candidate or candidates for a period of no more than 20 hours in any election;
  - (b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
  - (c) Coordinating campaign events involving 3 or more candidates;
- (8) Campaign training sessions provided to 3 or more candidates;
- (8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
- (8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
- (8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;
- (9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
- (10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.

**3. Expenditure.** The term "expenditure:"

A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;
- (3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and
- (4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

B. Does not include:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, ~~or~~ candidate, or candidate's immediate family;
- (1-A) Any communication distributed through a public access ~~television broadcast~~ station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$100 with respect to any election;
- (5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (5-A) Any unreimbursed campaign-related travel and lodging expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;

- (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;
- (7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;
- (9) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
- (10) Compensation paid by a ~~political~~ party committee to an employee of that ~~party~~ committee for the following purposes:
  - (a) Providing ~~advice to any one~~ assistance to a candidate or candidates for a period of no more than 20 hours in any election;
  - (b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
  - (c) Coordinating campaign events involving 3 or more candidates;
- (10-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
- (11) Campaign training sessions provided to 3 or more candidates;
- (11-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes; or
- (12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider.

#### **4. Exploratory committee. (REPEALED)**

**5. Party candidate listing.** "Party candidate listing" means any communication that meets the following criteria.

- A. The communication lists the names of at least 3 candidates for election to public office.
- B. The communication is distributed through public advertising such as broadcast stations, cable television, newspapers and similar media, and through direct mail, telephone, electronic mail, publicly accessible sites on the Internet or personal delivery.
- C. The treatment of all candidates in the communication is substantially similar, except for any requirement under federal law applicable to communications regarding federal candidates.

D. The content of the communication is limited to:

- (1) The identification of each candidate, with which pictures may be used;
- (2) The offices sought;
- (3) The offices currently held by the candidates;
- (4) The party affiliation of the candidates and a brief statement, including campaign slogans, about the party's or the candidates' positions, philosophy, goals, accomplishments or biographies;
- (5) Encouragement to vote for the candidates identified; ~~and~~
- (6) Information about voting, such as voting hours and locations; and
- (7) Campaign or party logos.

If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing.

## **21A § 1013-A. Registration**

**1. Candidates, their treasurers and political committees.** A candidate shall register the candidate's name and the name of a treasurer with the Commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

A. No later than 10 days after becoming a candidate and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 2, paragraph A shall appoint a treasurer. The candidate may serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the Commission.

(1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. When a treasurer dies or resigns, the deputy treasurer may not assume the position of treasurer unless the candidate appoints the deputy treasurer to the position of treasurer. The candidate shall report the name and address of the deputy treasurer to the Commission no later than 10 days after the deputy treasurer has been appointed.

B. A candidate may authorize one political committee to promote the candidate's election. No later than 10 days after appointing a political committee and before accepting contributions, making expenditures or incurring obligations, a candidate for

state, county or municipal office shall appoint a treasurer of the political committee. The treasurer of the political committee is responsible for filing campaign finance reports under this chapter. No later than 10 days after appointing a political committee, the candidate shall register with the Commission the following information regarding the political committee:

- (1) The name of the committee;
- (2) The name and address of the committee's treasurer;
- (3) The name of the candidate who authorized the committee; and
- (4) The names and addresses of the committee's officers.

C. No later than 10 days after becoming a candidate, as defined in section 1, subsection 5, a candidate for the office of State House of Representatives or Senate shall file in writing a statement declaring that the candidate agrees to accept voluntary limits on political expenditures or that the candidate does not agree to accept voluntary limits on political expenditures, as specified in section 1015, subsections 7 to 9, ~~or that the A~~ candidate who has filed a declaration of intent to become certified as a candidate under the Maine Clean Election Act is not required to file a written statement as required by the subsection.

The statement filed by a candidate who voluntarily agrees to limit spending must state that the candidate knows the voluntary expenditure limitations as set out in section 1015, subsection 8 and that the candidate is voluntarily agreeing to limit the candidate's political expenditures and those made on behalf of the candidate by the candidate's political committee or committees, the candidate's party and the candidate's immediate family to the amount set by law. The statement must further state that the candidate does not condone and will not solicit any independent expenditures made on behalf of the candidate.

The statement filed by a candidate who does not agree to voluntarily limit political expenditures must state that the candidate does not accept the voluntary expenditure limits as set out in section 1015, subsection 8.

~~The statement filed by a candidate who has filed a declaration of intent under the Maine Clean Election Act must state that the candidate will be bound by the expenditure limitations imposed by that Act.~~

#### **21A § 1013-B. Removal of treasurer; filling vacancy of treasurer; substantiation of records of treasurer; notification to commission**

A candidate may remove any treasurer that the candidate has appointed. In case of a vacancy in the position of treasurer of a candidate or treasurer of a political committee before the obligations of the treasurer have been performed, the candidate shall serve as treasurer from the date of the vacancy until the candidate appoints a successor and reports the name and address of the successor to the Commission. The candidate shall file a written statement of resignation of a treasurer of a candidate or a treasurer of a political committee and until that statement has been filed, the resignation is not effective. An individual who vacates the position of treasurer by reason of removal or resignation shall certify in writing the accuracy of the treasurer's records to



the succeeding treasurer. A succeeding treasurer may not be held responsible for the accuracy of the predecessor's records.

## **21A § 1014. Publication or distribution of political statements**

**1. Authorized by candidate.** Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the Commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee that is made through a radio or television station is not required to state the address of the candidate or committee that financed the communication.

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

**2-A. Communication.** ~~If a communication~~ Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 24 30 days before a primary election and 60 days before an general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

**3. Broadcasting prohibited without disclosure.** No person operating a broadcasting station or agent of that person within this State may broadcast any communication, as described in subsections 1 and 2, without an oral or written visual announcement of the name of the person who made or financed the expenditure for the communication.

**3-A. In-kind contributions of printed materials.** A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the

candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

**3-B. Newspapers.** A newspaper may not publish a communication described in subsection 1 or 2 without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the Commission regarding whether or not the communication requires the disclosure.

**4. Enforcement.** An expenditure, communication or broadcast made within ~~40~~ 30 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than \$200. The person who financed the communication or who committed the violation shall correct the violation within 10 days after receiving notification of the violation from the commission. An expenditure, communication or broadcast made more than ~~40~~ 30 days before the election that results in a violation of this section may result in a civil fine of no more than \$100 if the violation is not corrected within 10 days after the ~~candidate~~ *person who financed the communication* or other person who committed the violation receives notification of the violation from the Commission. If the Commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication, or whether the communication was or was not authorized by the candidate, the Commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

**5. ~~Automated~~ Telephone calls.** Prerecorded ~~A~~ automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 30 days before a primary election and the 60 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication and the name of the candidate in whose support the expenditure was made, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

## **21A § 1015. Limitations on contributions and expenditures**

**1. Individuals.** An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate or more than \$250 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner.

**2. Committees; corporations; associations.** A political committee, political action committee, other committee, firm, partnership, corporation, or association, ~~or association, or organization~~ may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate or more than \$250 in any election for any other candidate.

**3. Aggregate contributions.** No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or ~~his~~ that candidate's spouse or domestic partner.

**4. Political committees; intermediaries.** For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, ~~including contributions which are~~ in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.

**5. Other contributions and expenditures.** Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

**6. Prohibited expenditures.** A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

**7. Voluntary limitations on political expenditures.** A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

**8. Political expenditure limitation amounts.** Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

A. For State Senator, \$25,000; and

B. For State Representative, \$5,000; ~~and~~

~~C. For State Senator or State Representative as a candidate certified under the Maine Clean Election Act, to the extent authorized by that Act.~~

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

**9. Publication of list.** The Commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.

#### **21A § 1015-A. Corporate contributions**

Contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions made by a political committee or political action committee whose contribution or expenditure activities are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee.

**1. Single entities.** Two or more entities are treated as a single entity if the entities:

- A. Share the majority of members of their boards of directors;
- B. Share 2 or more officers;
- C. Are owned or controlled by the same majority shareholder or shareholders; or
- D. Are in a parent-subsidiary relationship.

**2. Sole proprietorships.** A sole proprietorship and its owner are treated as a single entity.

#### **21A § 1016. Records**

Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes, as provided in this section. When reporting contributions and expenditures to the Commission as required by section 1017, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer.

**1. Segregated funds.** All funds of a political committee and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee. Personal funds of the candidate used to support the candidacy must be recorded and reported to the treasurer as contributions to the political committee, or the candidate if the candidate has not authorized a political committee.

**2. Report of contributions and expenditures.** A person who receives a contribution or makes an expenditure for a candidate or political committee shall report the contribution or expenditure to the treasurer within 5 days of the receipt of the contribution or the making of the expenditure. A person who receives a contribution in excess of \$10 for a candidate or a political committee shall report to the treasurer the amount of the contribution, the name and address of the person making the contribution and the date on which the contribution was received.

**3. Record keeping.** A treasurer shall keep a detailed and exact account of:

- A. All contributions made to or for the candidate or committee, including any contributions by the candidate and the candidate's spouse or domestic partner;
- B. The name and address of every person making a contribution in excess of \$10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than \$50, the account must include the contributor's occupation and principal place of business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this paragraph, "filing period" is as provided in section 1017, subsections 2 and 3-A;
- C. All expenditures made by or on behalf of the committee or candidate; and
- D. The name and address of every person to whom any expenditure is made and the date, ~~and amount~~ and purpose of the expenditure.

**4. Receipts preservation.** A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate and for any such expenditure in a lesser amount if the aggregate amount of those expenditures to the same person in any election exceeds \$50. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for 2 years following the final report required to be filed for the election to which they pertain, unless otherwise ordered by the Commission or a court.

**21A § 1017. Reports by candidates**

**1. Federal candidates.** ~~The treasurer of the campaign committee of each candidate for federal office shall file with the Commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.~~

**2. Gubernatorial candidates.** A treasurer of a candidate for the office of Governor shall file reports with the Commission as follows. Once the first required report has been filed, each subsequent report must cover the period from the ~~completion~~ end date of the prior report filed.

A. In any calendar year, other than a gubernatorial election year, in which the candidate or the candidate's political committee has received contributions in excess of \$1,000 or made or authorized expenditures in excess of \$1,000, reports must be filed no later than 5:00 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the candidate's treasurer as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5:00 p.m. on the 42nd day before the date on which an election is held and must be complete as of the 49th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date.

C. Reports must be filed no later than 5:00 p.m. on the ~~61~~11th day before the date on which an election is held and must be complete as of the ~~42~~14th day before that date.

D. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the ~~42~~<sup>14</sup>th day before the election, and more than 24 hours before 5:00 p.m. on the day of the election, must be reported within 24 hours of those contributions or expenditures.

E. Reports must be filed no later than 5:00 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$50 shall file reports semiannually with the Commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports ~~may either~~ will be considered timely if filed electronically or in person with the Commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the ~~completion end~~ filing period date of the previous report. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

### **3. Other candidates. (REPEALED)**

**3-A. Other candidates.** A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the Commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the ~~completion end~~ filing period date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 5:00 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5:00 p.m. on the ~~61~~<sup>11</sup>th day before the date on which an election is held and must be complete as of the ~~42~~<sup>14</sup>th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must

cover all contributions and expenditures through the ~~completion date~~ the 14<sup>th</sup> day before the election.

C. Contributions aggregating ~~\$1,000~~ \$500 or more from any one contributor or single expenditures of ~~\$1,000~~ \$500 or more, made after the ~~1214<sup>th</sup>~~ day before any election and more than 24 hours before 5:00 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures.

D. Reports must be filed no later than 5:00 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$50 shall file reports semiannually with the Commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports ~~may either~~ will be considered timely if filed electronically or in person with the Commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

**3-B. Accelerated reporting schedule.** Additional reports are required from nonparticipating ~~Maine Clean Election Act~~ candidates, as defined in section 1122(5), pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than ~~1% in excess of~~ the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the Commission, within 48 hours of that event, a report with the Commission detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date.

B. A nonparticipating candidate ~~with a Maine Clean Election Act opponent~~ who is required to file a report required under paragraph A shall file the following additional reports detailing the candidate's total campaign contributions, including any campaign balance from a previous election, obligations and expenditures to date, unless ~~that candidate signs an affidavit by the date the report is due occurs prior to the filing of the, attesting that the candidate has not received, spent or obligated an amount sufficient to require a report~~ required under paragraph A:

- (1) A report filed not later than 5:00 p.m. on the 42nd day before the date on which an election is held and complete as of the 44th day before that date;
- (2) A report filed no later than 5:00 p.m. on the 21st day before the date on which an election is held and complete as of the 23rd day before that date; and
- (3) A report filed no later than 5:00 p.m. on the 126th day before the date on which an election is held and complete as of the 148th day before that date.

~~C. A candidate who is required to file a report under paragraph A must file with the Commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 5:00 p.m. on the date of that election:~~

- ~~(1) For a candidate for Governor, a single expenditure of \$1,000;~~
- ~~(2) For a candidate for the state Senate, a single expenditure of \$750; and~~
- ~~(3) For a candidate for the state House of Representatives, a single expenditure of \$500.~~

~~A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.~~

~~The Commission shall provide forms to facilitate compliance with this subsection. The Commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.~~

**4. New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The person required to file a report under section 1013-A, subsection 1 shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The candidate must file all subsequent reports required under this section. The Commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

**5. Content.** A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. ~~Total contributions with respect to an election of less than \$500 and total expenditures of less than \$500 need not be itemized.~~ The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made



during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. ~~Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993,~~ The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

**5-A. Valuation of contributions sold at auction.** Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction.

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the purchase price paid at auction. Unless further reports are filed in relation to a later election in the same calendar year, the disposition of any net surplus or deficit in excess of \$50 resulting from the difference between the auction price and the original contribution value must be reported in the same manner as provided in subsection 2, paragraph F or subsection 3-A, paragraph E, as appropriate.

**6. Forms.** Reports required by this section not filed electronically must be on forms prescribed, prepared and sent by the Commission to the treasurer of each registered candidate at least 7 days before the filing date for the report. Establishment of or amendments to the campaign report filing forms required by this section must be by rule. Persons filing reports may use additional pages if necessary, but the pages must be the same size as the pages of the form. Although the Commission mails the forms for required reports to candidates who are exempt from filing electronically, failure to receive forms by mail does not excuse treasurers, committees and other persons who must file reports from otherwise obtaining the forms or from late filing penalties.

Rules of the Commission establishing campaign report filing forms for candidates are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## **7. Reporting exemption. (REPEALED)**

**7-A. Reporting exemption.** A candidate is exempt from reporting as provided by this subsection.

A. A candidate may, at the time the candidate registers under section 1013-A, notify the Commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the Commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true.

B. The notice provided to the Commission under paragraph A may be revoked. Prior to revocation, the candidate must appoint a treasurer. The candidate may not accept contributions, make expenditures or incur obligations before the appointment of a treasurer and the filing of a revocation notice are accomplished. A revocation notice

must be in the form of an amended registration, which must be filed with the Commission no later than 10 days after the appointment of a treasurer. The candidate and the candidate's treasurer, as of the date the revocation notice is filed with the Commission, may accept contributions, make expenditures and incur obligations associated with the candidate's candidacy. Any candidate who fails to file a timely revocation notice is subject to the penalties prescribed in section 1020-A, subsection 4, up to a maximum of \$5,000. Lateness is calculated from the day a contribution is received, an expenditure is made or an obligation is incurred, whichever is earliest.

**8. Disposition of surplus.** A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 ~~may~~ must dispose of a surplus exceeding \$50 within 4 years of the election for which the contributions were received by:

- A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;
- B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;
- C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;
- D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;
- D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;
- E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;
- F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;
- G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and
- H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

~~The choice must be made by the candidate for whose benefit the contributions were made and distribution of the entire surplus by one or more of the methods prescribed in this subsection must be completed within 4 years of the election for which the contributions were received.~~

**9. Campaign termination report forms.** The Commission shall provide each candidate required to report campaign contributions and expenditures with a campaign termination report form. A candidate shall file the campaign termination report with the Commission as required in this subsection. The campaign termination report must be complete as of June 30th of the year following the campaign of the previous year. This form must show any deficits or surpluses to

be carried over to the next campaign. Funds not carried forward to the next campaign must be disposed of as provided in section 1017, subsection 8. Campaign reporting is as follows.

- A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.
- B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.
- C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated.
- D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the Commission pursuant to section 1013-A.

**10. Electronic filing.** Beginning January 1, 2006, the treasurer of a candidate or committee that has receipts or expects to have receipts of more than \$1,500 shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a candidate or committee submits a written request that states that the candidate or committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by April 15th of the election year, except that a candidate registered according to subsection 4 shall have 10 business days from the date of registration to submit a request to the Commission. The Commission shall grant all reasonable requests for exceptions.

#### **21A § 1017-A. Reports of contributions and expenditures by party committees**

**1. Contributions.** A party committee shall report all contributions in cash or in kind from an ~~individual~~ single contributor that in the aggregate in a campaign total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.

**2. Expenditures on behalf of candidates, others.** A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

- A. The name and address of each candidate and the identity and address of a campaign or committee;
- B. The office sought by a candidate and the district that the candidate seeks to represent; and
- C. The date, ~~and amount~~ and purpose of each expenditure.

**3. Other expenditures.** Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported ~~as a separate item~~ separately. The party committee shall report:

- A. The name and address of each payee or recipient;
- B. The reason or purpose for the expenditure; and

C. The date and amount of each expenditure.

**4. Filing schedule. (REPEALED)**

**4-A. Filing schedule.** A state party committee shall file its reports according to the following schedule.

A. Quarterly reports must be filed by 5:00 p.m.:

- (1) On January 15th and must be complete up to January 5th;
- (2) On April 10th and must be complete up to March 31st;
- (3) On July 15th and must be complete up to July 5th; and
- (4) On October 10th and must be complete up to September 30th.

B. General and primary election reports must be filed by 5:00 p.m.:

- (1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed by 5:00 p.m.:

- (1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A state party committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than 24 hours before 5:00 p.m. on the day of the election, within 24 hours of that expenditure.

**4-B. Filing schedule for municipal, district and county party committees.** Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the Commission by 5:00 p.m. on:

- (1) July 15th and be complete as of June 30th;

(2) ~~October 27th and be complete as of October 22nd~~ the 6th day before the date on which the election is held and must be complete up to the 12th day before that date;  
and

(3) January 15th and be complete as of December 31st.

B. Reports filed during a nonelection year must be filed on by 5:00 p.m.:

(1) July 15th and be complete as of June 30th; and

(2) January 15th and be complete as of December 31st.

C. Any ~~contribution or~~ expenditure of ~~\$1,000~~ \$500 or more made after the 12th day before any election and more than 24 hours before that election must be reported within 24 hours of that contribution or expenditure.

**4-C. Electronic filing.** Beginning January 1, 2006, state party committees shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The Commission shall grant all reasonable requests for exceptions.

**5. Penalties.** A party committee is subject to the penalties in section 1020-A, subsection 4.

**6. Notice; forms.** A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the Commission to complete the filing requirements.

**7. Exemption.** Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year.

**8. Municipal elections.** When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

#### **21A § 1018. Reports by party committees**

**1. State committee; federal reports.** ~~The state committee of each party shall file with the Commission a copy of the complete report required of them under federal law on the same date that those reports are required to be filed under federal law.~~

**2. Party committee. (REPEALED)**

#### **21A § 1018-B Recounts of elections**

**1. Reporting.** Candidates who are involved in a recount of an election shall file a report 90 days after the election containing itemized accounts of cash, goods and services received for the recount and payments made by the candidate for the recount. The reports must be made on forms prepared and sent by the Commission. Persons donating services to the candidate are required to provide the candidate with an estimate of the value of the services

donated. Political action committees and party committees making expenditures for a candidate's recount shall identify on their regularly filed reports that the expenditures were made for the purposes of a recount.

**2. Limitations.** Candidates may receive donations without limitation for purposes of a recount from party committees and caucus campaign committees and from attorneys, consultants and their firms that are donating their services without reimbursement. Candidates may not spend revenues received under chapter 14 for recount expenditures.

**21A § 1019. Reports of independent expenditures (REPEALED)**

**21A § 1019-A. Reports of membership communications**

Any membership organization or corporation that makes a communication to its members or stockholders expressly advocating the election or defeat of a clearly identified candidate shall report any expenses related to such communications aggregating in excess of \$50 in any one candidate's election race, notwithstanding the fact that such communications are not expenditures under section 1012, subsection 3, paragraph A. Reports required by this section must be filed with the Commission on forms prescribed and prepared by the Commission and according to a reporting schedule that the Commission shall establish by rule.

**21A §1019-B. Reports of independent expenditures**

**1. Independent expenditures; definition.** For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the ~~24~~ 30 days, including election day, before a primary election; the ~~24~~60 days, including election day, before a general election; or during a special election until and on election day.

**2. Rebutting presumption.** A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the Commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The Commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

**3. Report required; content; rules.** A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of \$100

during any one candidate's election shall file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the Commission according to a reporting schedule that the Commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each ~~contribution or expenditure~~ aggregating in excess of \$100 in any one candidate's election, the date and purpose of each ~~contribution or expenditure~~, a description of all communications related to the expenditure, and the name of each payee or creditor. The report must state whether the ~~contribution or expenditure~~ is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the ~~contribution or~~ expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

## **21A § 1020. Failure to file on time (REPEALED)**

### **21A § 1020-A. Failure to file on time**

**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the Commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$100. The Commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the Commission ~~before~~ by 5:00 p.m. on the date it is due. Except as provided in subsection 7, the Commission shall determine whether a report satisfies the requirements for timely filing. The Commission may waive a penalty if the Commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The Commission may waive the penalty in whole or in part if the Commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;

B. An error by the Commission staff;

C. Failure to receive notice of the filing deadline; or

D. Other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in internet service.

**3. Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the Commission of any late reports subject to a penalty.

**4. Basis for penalties. (REPEALED)**

**4-A. Basis for penalties.** The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$~~5~~10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the Commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate, whichever is greater, exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The Commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the Commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

**5. Maximum penalties. (REPEALED)**

**5-A. Maximum penalties.** Penalties assessed under this subchapter may not exceed:



- A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3;
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E;
- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E;
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or
- E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the Commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

**6. Request for a commission determination.** Within 3 days following the filing deadline, a notice must be ~~forwarded~~sent to a candidate and treasurer whose registration or campaign finance report is not received by 5:00 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the Commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the Commission.

**7. Final notice of penalty.** If a determination has been requested by the candidate and made by the Commission~~After a commission meeting~~, notice of the Commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

If no determination is requested, the Commission staff shall calculate the penalty as prescribed in subsection 4 and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the Commission.

**8. Failure to file report.** The Commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice shall be sent by certified mail. ~~If a candidate fails to file a report after 3 written communications notices have been sent by from the Commission, the Commission shall send up to 2 more written communications~~ a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the Commission has sent the communications required by this subsection is guilty of a Class E crime.

**8-A. Penalties for failure to file report.** The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

**9. List of late-filing candidates.** The Commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

**10. Enforcement.** The Commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after issuing the notice of penalty, the Commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

## SUBCHAPTER IV

### REPORTS BY POLITICAL ACTION COMMITTEES

#### 21A § 1051. Application

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of ~~\$50~~ \$1,500 in any one calendar year for the election of state, county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter.

This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine."

#### 21A § 1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Campaign.** "Campaign" means any course of activities for a specific purpose such as the initiation, promotion or defeat of a candidate or question, including:

- A. The referendum procedure under the Constitution of Maine, Article IV, Part Third, Section 17;
- B. The initiative procedure under the Constitution of Maine, Article IV, Part Third, Section 18;
- C. An amendment to the Constitution of Maine under Article X, Section 4;
- D. Legislation expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;
- E. The ratification of the issue of bonds by the State or any agency thereof; and
- F. Any county or municipal referendum.

**2. Committee.** "Committee" means any political action committee, as defined in this subchapter, and includes any agent of a political committee.

**3. Contribution.** "Contribution" includes:

- A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee;

C. Any funds received by a political action committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative, including the collection of signatures for a direct initiative, in this State; or

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee which is used by the political action committee to promote, defeat or initiate a candidate, campaign political party, referendum or initiated petition in this State.

**4. Expenditure.** The term "expenditure:"

A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and
- (3) The transfer of funds by a political action committee to another candidate or political committee; and

B. Does not include:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee, ~~or~~ candidate, or candidate's immediate family;
- (2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$100 with respect to any election;
- (5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

**5. Political action committee.** The term "political action committee:"

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;
- (2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;
- (3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and
- (4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection 2; or
- (3) A party committee under section 1013-A, subsection 3.

**21A § 1055. Publication or distribution of statements**

~~When a~~A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate or that names or depicts a clearly-identified candidate is subject to the requirements of section 1014 of this chapter.~~through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails and other similar types of general public political advertising and through flyers, handbills, bumper stickers and other nonperiodical publications, the communication must clearly and conspicuously state the name and address of the political action committee that authorized, made or financed the expenditure for the communication and that the communication has been authorized by the political action committee.~~

~~A person operating a broadcasting station within this State may not broadcast any such communication without an oral or visual announcement of the name and address of the political action committee that made or financed the expenditure for the communication.~~

~~A newspaper may not publish a communication described in this section without including the disclosure required by this section. For purposes of this paragraph, "newspaper" includes any printed material intended for general circulation or to be read by the general public. When necessary, a newspaper may seek the advice of the Commission regarding whether or not the communication requires the disclosure.~~

~~An expenditure, communication or broadcast that results in a violation of this section may result in a civil penalty of no more than \$200. Enforcement and collection procedures must be in accordance with section 1062 A.~~

## **21A § 1057. Records**

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

**1. Details of records.** The treasurer of a political action committee must record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;
- C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and
- D. The date of each expenditure.

**2. Receipts.** The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure of \$50 or more~~all receipts of expenditures made for a candidate, committee or campaign in this State. Receipts may be in the form of cancelled checks.~~

**3. Record of contributions.** The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to contributions which do not exceed \$50 each for a general election, primary election and referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

## **21A § 1058. Reports; qualifications for filing**

A political action committee that is registered with the Commission or that accepts contributions or incurs obligations in an aggregate amount in excess of ~~\$50~~ \$1,500 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action

committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.

#### **21A § 1062-A. Failure to file on time**

**1. Registration.** A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the Commission for registration may be assessed a forfeiture of \$250.

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the Commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the Commission shall determine whether a required report satisfies the requirements for timely filing. The Commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The Commission may waive the penalty in whole or in part if the Commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency of the committee treasurer determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the Commission staff; or
- C. Other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

**3. Basis for penalties.** The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$510 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, as long as an original of the same report is received by the Commission within 5 calendar days thereafter.

**4. Maximum penalties.** The maximum penalties under this subchapter are \$10,000 for reports required under section 1059, subsection 2, paragraphs B, C and E and \$5,000 for reports required under section 1059, subsection 2, paragraph A.

**5. Request for a commission determination.** Within 3 days following the filing deadline, a notice must be forwarded to the principal officer and treasurer of the political action committee whose report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 3 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. A request for determination must be made within 10 calendar days of receipt of the Commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the Commission.

**6. Final notice of penalty.** After a commission meeting, notice of the final determination of the Commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If no determination is requested, the Commission staff shall calculate the penalty based on the provision of subsection 3 and shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the Commission.

**7. List of late-filing committees.** The Commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1), section 1059, subsection 2, paragraph C or D or section 1059, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

**8. Failure to file.** A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the Commission, the State may not prosecute a violation under this subsection.

**8-A. Penalties for failure to file report.** The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph B, C or E is \$10,000. The maximum penalty for failure to file a report required under section 1059, subsection 2, paragraph A is \$5,000.

**9. Enforcement.** The Commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the political action



committee and its treasurer. Thirty days after issuing the notice of penalty, the Commission shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

## CHAPTER 14

### THE MAINE CLEAN ELECTION ACT

#### 21A § 1122. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Certified candidate.** "Certified candidate" means a candidate running for Governor, State Senator or State Representative who chooses to participate in the Maine Clean Election Act and who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**2. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, section 12004-G, subsection 33.

**3. Contribution.** "Contribution" has the same meaning as in section 1012, subsection 2.

**3-A. Immediate family.** "Immediate family" has the same meaning as in section 1(20) and includes a candidate's domestic partner and the immediate family of the candidate's domestic partner.

**4. Fund.** "Fund" means the Maine Clean Election Fund established in section 1124.

**5. Nonparticipating candidate.** "Nonparticipating candidate" means a candidate running for Governor, State Senator or State Representative who does not choose to participate in the Maine Clean Election Act and who is not seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**6. Participating candidate.** "Participating candidate" means a candidate who is running for Governor, State Senator or State Representative who is seeking to be certified as a Maine Clean Election Act candidate under section 1125, subsection 5.

**7. Qualifying contribution.** "Qualifying contribution" means a donation:

A. Of \$5 in the form of a check or a money order payable to the fund and made in support of a candidate;

B. Made by a registered voter within the electoral division for the office a candidate is seeking and whose voter registration has been verified by the municipal registrar;

C. Made during the designated qualifying period ~~and obtained with the knowledge and approval of the candidate;~~ and

D. That the contributor acknowledged was made with his or her personal funds and in support of the candidate and was not given in exchange for anything of value; and that the candidate acknowledges was obtained with the candidate's knowledge and approval and that nothing of value was given in exchange for the contribution. ~~is acknowledged by a written receipt that identifies the name and address of the donor on forms provided by the commission.~~

**8. Qualifying period.** "Qualifying period" means the following.

A. For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on April 15th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

B. For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April 15th of that election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year.

**9. Seed money contribution.** "Seed money contribution" means a contribution of no more than \$100 ~~per individual~~ made to a participating candidate by an individual who is a Maine resident, including ~~a contribution from the candidate or the candidate's family. To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and throughout the qualifying period. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions. Prior to certification, a candidate may obligate an amount greater than the seed money collected if the value of the goods and services received from a vendor does not exceed the amount paid to the vendor. A candidate may not collect or spend seed money contributions after certification as a Maine Clean Election Act candidate. A seed money contribution must be reported according to procedures developed by the commission.~~

## **21A § 1124. The Maine Clean Election Fund established; sources of funding**

**1. Established.** The Maine Clean Election Fund is established to finance the election campaigns of certified Maine Clean Election Act candidates running for Governor, State Senator and State Representative and to pay administrative and enforcement costs of the commission related to this Act. The fund is a special, dedicated, nonlapsing fund and any interest generated by the fund is credited to the fund. The commission shall administer the fund.

**2. Sources of funding.** The following must be deposited in the fund:

A. The qualifying contributions required under section 1125 when those contributions are submitted to the commission;

B. Two million dollars of the revenues from the taxes imposed under Title 36, Parts 3 and 8 and credited to the General Fund, transferred to the fund by the Treasurer of State on or before January 1st of each year, beginning January 1, 1999. These revenues must be offset in an equitable manner by an equivalent reduction within the administrative divisions of the legislative branch and executive branch agencies. This section may not affect the funds distributed to the Local Government Fund under Title 30-A, section 5681.

~~If the commission determines that the fund will not have sufficient revenues to cover the likely demand for funds from the Maine Clean Election Fund in an upcoming calendar year, by January 1st the commission shall provide a report of its projections of the~~

~~balances in the Maine Clean Election Fund to the Legislature and the Governor and may request that the State Controller make the following transfers to the Maine Clean Election Fund from the General Fund:~~

~~(1) Up to \$2,000,000 no later than February 28, 2006, reflecting an advance of the transfer of the amounts that would be received on or before January 1, 2007 pursuant to this paragraph;~~

~~(2) Up to \$2,000,000 no later than July 31, 2006, reflecting an advance of the transfer of the amounts that would be received on or before January 1, 2008 pursuant to this paragraph; and~~

~~(3) Up to \$1,500,000 no later than September 1, 2004, reflecting a partial advance of the transfer of the amounts that would be received on or before January 1, 2005 pursuant to this paragraph;~~

C. Revenue from a tax check off program allowing a resident of the State who files a tax return with the State Tax Assessor to designate that \$3 be paid into the fund. If a husband and wife file a joint return, each spouse may designate that \$3 be paid. The State Tax Assessor shall report annually the amounts designated for the fund to the State Controller, who shall transfer that amount to the fund;

~~D. Seed money contributions remaining unspent after a candidate has been certified as a Maine Clean Election Act candidate;~~

E. Fund revenues that were distributed to a Maine Clean Election Act candidate and that remain unspent after the candidate has lost a primary election or after all general elections;

F. Other unspent fund revenues distributed to any Maine Clean Election Act candidate who does not remain a candidate throughout a primary or general election cycle;

G. Voluntary donations made directly to the fund; and

H. Fines collected under section 1020-A, subsection 4 and section 1127.

**3. Determination of fund amount.** ~~By September 1st preceding each election year, the commission shall publish an estimate of revenue in the fund available for distribution to certified candidates during the upcoming year's elections and an estimate of the likely demand for clean elections funding during that election. If the commission determines that the fund will not have sufficient revenues to cover the likely demand for funds from the Maine Clean Election Fund in an upcoming election, by January 1st the commission shall provide a report of its projections of the balances in the Maine Clean Election Fund to the Legislature and the Governor. The commission may submit legislation to request additional funding.~~

## **21A § 1125. Terms of participation**

**1. Declaration of intent.** A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to

forms and procedures developed by the commission. A participating candidate must submit a declaration of intent within 5 business days of collecting qualifying contributions under this chapter, ~~or the~~ Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirement in subsection 3.

**2. ~~Restrictions on e~~Contributions limits for participating candidates.** Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- A. Fifty thousand dollars for a gubernatorial candidate;
- B. One thousand five hundred dollars for a candidate for the State Senate; or
- C. Five hundred dollars for a candidate for the State House of Representatives.

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

**2-A. Seed money report.** Seed money contributions and expenditures must be reported according to procedures developed by the commission. A candidate must report the name, residential address, and the occupation and employer of every individual contributor. The commission may require a gubernatorial candidate to submit, with the seed money report, a contribution card or other form signed by the contributor attesting that the seed money contribution was made with his or her personal funds, and was not reimbursed by any source.

**2-B. Seed money restrictions.** To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification. Unless excluded from the definition of contribution in section 1012(2)(B), all goods and services received prior to certification must be paid for with seed money contributions. Prior to certification, a candidate may obligate an amount greater than the seed money collected for goods and services but may only receive that portion of goods and services which has been paid for or will be paid for with seed money. A candidate may not collect or spend seed money contributions after certification as a Maine Clean Election Act candidate. It shall be a violation of this chapter for a candidate to use fund revenues received after certification to pay for goods and services received prior to certification. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

**3. Qualifying contributions.** Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- A. For a gubernatorial candidate, at least ~~2,500~~ 3,000 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate, which must include at least 50 qualifying contributions from verified registered voters from each county in the State;

B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or

C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by rule a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the internet.

It shall be a violation of this chapter for a candidate or an agent of the candidate to misrepresent or to fail to disclose to a potential contributor the nature and purpose of qualifying contribution or the purpose of obtaining the contributor's signature.

**4. Filing with commission.** A participating candidate must submit qualifying contributions, receipt and acknowledgement forms, proof of verification of voter registration, and a seed money report to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission or its executive director shall determine whether ~~or not~~ the candidate has:

A. Signed and filed a declaration of intent to participate in this Act;

B. Submitted the appropriate number of valid qualifying contributions;

C. Qualified as a candidate by petition or other means;

C-1. If the candidate is a gubernatorial candidate, raised at least ten thousand dollars in seed money contributions;

D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions;

D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; ~~and~~

D-2. Not been found to have made a material false statement in a report or other document submitted to the commission;

D-3. Not had prior requests for certification denied or certification revoked on the basis of fraud or other substantial violations of this chapter or chapter 13;

D-4. Not failed to pay any civil penalty assessed by the Commission under this title, except that a candidate shall have 3 business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and

E. Otherwise met the requirements for participation in this Act.

The commission or its executive director shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible after final submittal of qualifying contributions and other supporting documents required under subsection 4 ~~and~~ but no later than 3 business days for legislative candidates and 5 business days for gubernatorial candidates after final submittal of qualifying contributions. The commission and its executive director may take additional time if further investigation is necessary to verify compliance with the Act, provided that the commission shall notify the affected candidate regarding the anticipated schedule for conclusion of the investigation.

~~Upon certification, a candidate must transfer to the fund any unspent seed money contributions.~~  
A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

**5-A. Revocation of Certification.** The certification of a participating candidate may be revoked at any time if the Commission determines that the candidate or an agent of the candidate:

- a. did not submit the required number of valid qualifying contributions;
- b. failed to qualify as a candidate by petition or other means;
- c. submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor;
- d. did not disclose or misrepresented to a contributor the nature and purpose of the qualifying contribution or the reason for obtaining a contributor's signature on the receipt and acknowledgement form;
- e. failed to fully comply with the seed money restrictions;
- f. knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;
- g. knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; or
- h. otherwise substantially violated the provisions of this chapter or chapter 13.

The determination to revoke the certification of a candidate shall be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked must return all unspent funds to the commission within three days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification, in the same manner provided in subsection 14, paragraph C.

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All

revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. Candidates may not spend fund revenues on payments to the candidate, a member of the candidate's immediate family, or to a business or non-profit entity affiliated with the candidate, except to make payment for goods or property provided to the candidate's campaign. Services provided to the campaign by members of the candidate's immediate family must be provided on a volunteer basis and may not be paid for or reimbursed by the campaign with fund revenues. The commission shall publish guidelines outlining permissible campaign-related expenditures.

**6-A. Assisting a person to become an opponent.** A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such candidacy would result in the distribution of revenues under subsections 7 and 8 for certified candidates in a contested election.

**7. Timing of fund distribution.** The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election.

B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election.

B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year.

C. ~~Within~~ No later than 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election.

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

**7-A. Deposit into account.** The candidate or committee authorized pursuant to section 1013-A, subsection 1, shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

**8. Amount of fund distribution.** By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows.

A. For contested legislative primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections, as



reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives.

B. For uncontested legislative primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives.

C. For contested legislative general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections, as reported in the initial filing period subsequent to the general election for the respective offices of State Senate and State House of Representatives.

D. For uncontested legislative general elections, the amount of revenues to be distributed from the fund is 40% of the amount distributed to a participating candidate in a contested general election.

E. For contested gubernatorial primary elections, the amount of revenues distributed is \$200,000 per candidate in the primary election.

E-2. For uncontested gubernatorial primary elections, the amount of revenues distributed is \$80,000 per candidate in the primary election.

F. For gubernatorial general elections, the amount of revenues distributed is \$400,000 per candidate in the general election.

If the immediately preceding election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections.

**9. Matching funds.** When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, ~~alone or in conjunction~~ in combination with any independent expenditures reported under section 1019-B, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

**10. Candidate not enrolled in a party.** An unenrolled candidate who submits the required number of qualifying contributions and other required documents under subsection 4 ~~certified by 5:00 p.m. on April 15th preceding the primary election~~ and who is certified is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. ~~Otherwise, For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing must submit the required number of qualifying contributions and the other required documents under subsection 4 is by 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. If certified, the candidate is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8. Revenues for the general election must be distributed to the candidate no later than 3 days after certification.~~

**11. Other procedures.** The commission shall establish by rule procedures for qualification, certification, disbursement of fund revenues and return of unspent fund revenues for races involving special elections, recounts, vacancies, withdrawals or replacement candidates.

**12. Reporting; unspent revenue.** Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

**12-A. Required records.** The treasurer shall obtain and keep;

A. Bank or other account statements for the campaign account covering the duration of the campaign;

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

The treasurer shall preserve the records for two (2) years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the Commission upon its request.

**13. Distributions not to exceed amount in fund.** The Commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

**14. Appeals.** A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate, or other interested persons may challenge a certification decision by the commission or its executive director as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing, provided that the commission may extend this period upon agreement of the challenger and the candidate

whose certification is the subject of the appeal, or in response to the request of either party upon a showing of good cause. The appellant has the burden of ~~providing evidence to demonstrate~~ proving that the ~~commission~~ certification decision was ~~improper in error~~ as a matter of law or was based on factual error. The commission must rule on the appeal within 35 business days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court ~~according to the procedure set forth in section 356, subsection 2, paragraphs D and E~~ within 5 days of the date of the commission's decision. The action shall be conducted in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that the court shall issue its written decision within 20 days of the date of the commission's decision. Any aggrieved party may appeal the decision of the Superior Court by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after the notice of appeal is filed, and after filing the notice of appeal, the parties shall have 4 four days to file briefs and appendices with the clerk of the court. The court shall consider the case as soon as possible after the record and briefs have been filed and shall issue its decision within 14 days of the decision of the Superior Court.

D. A candidate whose certification ~~by the commission~~ as a Maine Clean Election Act candidate is ~~revoked~~ reversed on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court finds that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.